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Annual Reports 1986

Health Disciplines Board

Denture Therapists Appeal Board

Ministry of Health
Ontario

Ontario

International Year of Shelter for the Homeless
1987
Année internationale du logement des sans-abri

Health Disciplines Board
Conseil des sciences de la santé

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April 30, 1987

The Honourable Murray J. Elston
Minister of Health

Dear Minister:

It is our pleasure to submit the Eleventh Annual Report of the Health Disciplines Board for the period ending December 31, 1986.

This Report also includes a statement concerning the Denture Therapists Appeal Board.

Yours very truly,

B. Harry Barrett
Chairman

2761-04 (87/04)

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ANNUAL REPORT - 1986

INTRODUCTION

This is the eleventh report of the Health Disciplines Board to the Minister of Health as required by Section 7(1)[b] of the Health Disciplines Act. The report covers the Board's activities in the calendar year of 1986.

Membership on the Board underwent many changes during 1986.

It is with great sadness that the Board marks the death of A.J. "Red" Pianosi in June 1986. Mr. Pianosi was a dedicated Member of the Board for four years and his distinctive character, his concern for people experiencing difficulties and his sense of humour were qualities admired and appreciated by all who appeared before the Board. He will be greatly missed and we extend our deepest sympathies to his wife and family.

The Board also notes with great sadness the death of Russell J. Fraser, Q.C., who was counsel to the Board from 1974 to 1985. Mr. Fraser had extensive knowledge of the law as it pertained to the Board's mandate and he was a source of sound advice and valuable guidance. We extend our sympathies to his wife and children.

In January 1986, Solette N. Gelberg resigned from the Board after a term of five years. Mrs. Gelberg was appointed Vice-Chairman of the Board in August 1984 and she provided excellent leadership during the months in which the Board was without a chairman. The Board wishes to acknowledge Mrs. Gelberg's contribution and to thank her for her leadership.

Ronald Watson retired in August 1986 after two terms on the Board. Mr. Watson was appointed in 1979 and served for seven years. Mr. Watson was very interested in all the cases before the Board and we wish him well in his future endeavours.

In May 1986, Russell H. Ramsay of Sault Ste. Marie was appointed as Chairman of the Health Disciplines Board. Mr. Ramsay brought to this position extensive experience in both the public and private sectors.

Barbara L. Legate of London was appointed Vice-Chairman in May 1986. Because of increasing professional demands, Ms Legate resigned in December. In her short time on the Board, Ms Legate served both the Board and the public well.

Theodor Kerzner, Q.C., and Tracey Tremayne-Lloyd of Perry, Farley & Onyschuk began as legal counsel to the

Board in January, 1986. Louise Hastings accepted an interim assignment out of the Secretariat and her position has been filled on an acting basis by John Colangeli. The Board appreciates the administrative and professional support provided by the Health Boards Secretariat and legal counsel during the year.

BOARD MEMBERSHIP

The Board was established by the Health Disciplines Act, 1974, which was proclaimed on July 14, 1975.

No person may be appointed to the Health Disciplines Board who is employed in the public service of the Province, or who is or has been registered in a health profession.

MEMBERS - 1986

Russell H. Ramsay, Chairman	Sault Ste. Marie (appointed May '86)
Solette N. Gelberg, Vice-Chairman	Guelph (reappointed Aug.'84; resigned Jan.'86)
Barbara L. Legate, Vice-Chairman	(appointed May'86; resigned Dec.'86)
Beverly Y. Folkes	Toronto (appointed Aug.'86)
Grant H. Gilstorf	Mount Forest (reappointed Aug.'85)
Mary Lue Hinds	Sudbury (appointed Aug.'86)
Roberta S. McFadden	Toronto (appointed Aug.'84)
A. J. (Red) Pianosi	Copper Cliff (deceased June'86)
Ronald Watson	Scarborough (reappointed Aug.'83; term completed Aug.'86)
Sheila J. Ward	Toronto (appointed Nov.'84)

Health Boards Secretariat

Louise Hastings - Registrar

John Colangeli - Acting Registrar (December 1986)

Elizabeth O'Neil - Assistant to the Board

Sylvia Ramkissoon - Committee Officer

Legal Counsel

Theodor Kerzner, Q.C.

Tracey Tremayne-Lloyd

FUNCTIONS

The Health Disciplines Act is the source of the mandate for the five self-governing major health disciplines: dentistry, medicine, nursing, optometry and pharmacy. The Health Disciplines Board has two separate and distinct functions under the Act:

1. **COMPLAINTS**: The Board reviews decisions of the complaints committees of the colleges covered by the Act when either the complainant or the member complained against is not satisfied with a decision, other than a decision referring the matter to the Discipline Committee.

2. **REGISTRATIONS**: The Board, if requested, hears or reviews proposed decisions of the registration committees of the colleges covered by the Act where the committees propose to refuse to grant registration or to attach terms, conditions or limitations to a registrant.

ISSUES AND COMMENTS

I. ABUSE OF THE SYSTEM

Section 8[2] of the Health Disciplines Act states that the Board shall review decisions of the complaints committees of the colleges if such a review is requested by either the complainant or the member. There is no obligation to substantiate a need for the review; a complainant or member complained against need only request a review by the Board in order for one to be conducted. While simply requesting a review without indicating grounds initiates the process, it certainly does not contribute to it in any enlightening manner. It is the Board's position that encouragement to provide reasons for the request for review would be in the best interests of all parties.

It has become evident that a clear abuse of the system occurs when cases of a frivolous and vexatious nature are brought before the Board.

There are also instances of abuse of the system apart from the frivolous and vexatious type of complaint. One example is using the system to advance or propagate a hidden agenda under the guise of a complaint.

In 1986, there was a case before the Board which clearly demonstrates abuse of the review process. A man complained to the College of Physicians and Surgeons of Ontario about what he purported to be the unnecessary surgical removal of his bladder, prompted by a second opinion he had obtained from a cancer specialist. He stated he was lead to believe that this was the best course of treatment for the particular type of cancer from which he suffered, only later to learn that there were, indeed, other less radical procedures available. The man further reported that his personal life had been ruined as a direct result of the surgery he claimed to have undergone.

Upon questioning the complainant, the Board learned that the surgical procedure referred to had never, in fact, been performed; rather, the patient had been untruthful with both the College and the Board in this regard. In its decision, the Board voiced its displeasure at this fabrication, considering it despicable conduct and a gross abuse of the review process established under the Health Disciplines Act.

II. HEALTH PROFESSIONS LEGISLATION REVIEW

The Board received the October 28, 1986 version of the proposed Health Professions Procedural Code and reviewed its contents. The Board considered the proposed Code and submitted comments dealing with the following matters to the Health Professions Legislation Review:

- panels and quorum;
- staff and expert assistance;
- time limit for requesting complaint reviews;
- withdrawals;
- frivolous and vexatious matters;
- disclosure of documents;
- procedure at complaint reviews, registration hearings and registration reviews;
- continuing membership;
- the issue of public or private reviews;
- secrecy provisions;
- the Health Advisory Council.

Table I

HEALTH DISCIPLINES BOARD

DISPOSITION OF COMPLAINT REVIEWS
(for which decisions were issued in 1986)

College	Confirm	Returned for Further Investigation	Refer to Discipline	Admonish	Recommendation	Total
CPSO	94	11	2	1	2	110
RCDS	17	7	3	1	1	29
CNO	2	1	1	-	-	4
OCP	1	-	-	-	-	1
COO	-	-	-	-	-	-
TOTALS	114	19	6	2	3	144

Table II

DISPOSITION OF REGISTRATION REVIEWS AND HEARINGS
(for which decisions were issued in 1986)

College	Confirm	Further Consideration	Requirement	Total
CPSO	3	1	-	4
RCDS	-	-	-	-
CNO	5	2	3	10
OCP	1	-	-	1
COO	-	-	-	-
TOTALS	9	3	3	15

Table III

TOTAL COMPLAINT AND REGISTRATION CASES REVIEWED/HEARD

College	Complaints	Registration	Total
CPSO	114	3	117
RCDS	31	-	31
CNO	4	8	12
OCP	1	1	2
COO	-	-	-
TOTALS	150	12	162

DENTURE THERAPISTS APPEAL BOARD

The Denture Therapists Appeal Board was established by the Denture Therapists Act, 1974, which was proclaimed on July 14, 1975.

The membership of the Denture Therapists Appeal Board is identical to that of the Health Disciplines Board.

The Board conducted no registration reviews during 1986.

Three requests for complaint reviews were received during the year; two reviews were held and the third remained outstanding as at December 31, 1986.

No registration appeals or reviews were outstanding as at December 31, 1986.

Appendix A

THE HEALTH DISCIPLINES BOARD

GUIDE TO THE PROCEDURE ON A COMPLAINT REVIEW UNDER SECTION 8(2) OF THE HEALTH DISCIPLINES ACT

Prior to the commencement of a review, Board members are provided with, and have had the opportunity to examine all the material which the complaints committee had before it in reaching its decision. The Board members also have copies of the correspondence from the complainant requesting a review.

The Board normally conducts a complaint review in private session (in camera). However, the Board has the discretion to hold a review in public, and may do so upon application by the complainant, the member or on its own initiative.

The complainant and the member complained against are entitled to attend the review, and may state their complaint and answer either personally, by agent (a lawyer or friend) or in writing. However, they are not required, nor can the Board compel them, to attend.

The Board requests that a representative of the College be present to answer questions from the Board concerning the investigation conducted by the Complaints Committee.

Neither the complainant nor the member are sworn and no stenographic record or transcript is taken.

1. The complainant will be asked to state his or her complaint to the Board.

2. The member will be asked to state his or her answer to the complaint.

3. Members of the Board may wish to ask the complainant and/or the member some questions to clarify the complaint and/or the answer.

The Board may allow the complainant to make a final statement concerning his or her complaint and the member to make a final statement concerning his or her answer to clarify any matters that may arise from questions asked by the Board. Sometimes the Board is able to reach a decision at the conclusion of the

review and announce it orally to the participants. On other occasions, the Board reserves its decision for further consideration and advises the participants by writing of its decision. In either case, written reasons for the decision are sent in due course to the participants.